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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own
Motion to Assess and Revise the Regulation of
Telecommunications Utilities

R.05-04-005
(URF Phase II)

Rulemaking for the Purposes of Revising General Order
96-A Regarding Informal Filings at the Commission

R.98-07-038
(GO 96-A)

**REPLY COMMENTS COX CALIFORNIA TELCOM, L.L.C., DBA COX COMMUNICATIONS,
TIME WARNER TELECOM OF CALIFORNIA LP AND XO COMMUNICATIONS SERVICES,
INC. ON THE PROPOSED DECISION OF COMMISSIONER CHONG ADOPTING
TELECOMMUNICATIONS INDUSTRY RULES (AGENDA ID #6847)**

I. Introduction.

Time Warner Telecom of California, LP (U-5358-C) ("TWTC") and Cox California Telecom, LLC, d/b/a Cox Communications (U-5684-C) ("Cox") and XO Communications Services, Inc. (U-5553-C) (collectively "Joint Commenters") hereby submit these reply comments on the Proposed Decision of Commissioner Chong in the above-referenced consolidated proceedings, identified as agenda item #6847 ("GO 96-B PD"). Joint Commenters are filing concurrently a separate set of reply comments concerning the Proposed Decision Agenda Item #6846 ("URF II PD"). These reply comments incorporate by reference those reply comments submitted on the URF II PD.

II. Proposed Changes To The GO 96-B PD.

URF Carriers, CLCs and IXC. Similar to Joint Commenter's opening comments, CALTEL recognizes that the term "URF Carrier" does not apply to ILECs, CLCs and IXCs.¹ Additionally, AT&T recognizes there are three distinct types of carriers in recommending that the detariffing rules apply to "all competitive carriers -- URF ILEC, CLEC, and IXC."² Consistent with these comments and their opening comments, Joint Commenters urge the Commission to clarify that the telecommunications rules are applicable to both "URF Carriers" (i.e. those ILECs covered by the URF decision except the rate-regulated ILECs ("GRC-LECs"), CLCs and IXCs).

Amend Rule 5 To Properly Reflect Tariff Obligations Required By Applicable Law.

Consistent with their reply comments filed in response to the URF II PD, Joint Commenters agree with AT&T, Verizon and SureWest that the Commission should amend Rule 5 to state that a Utility may not detariff an obligation mandated by state or federal law to be included in tariffs.³

¹ CALTEL OC, pp. 3-4.

² AT&T OC URF II PD, p. 6.

³ See, ATT OC URF II PD, pp. 6-7; Verizon OC URF II PD, p. 8; SureWest OC URF II PD, 5.

Amend Rule 5.2 To Allow Carriers to Maintain Web Archives. As discussed in Joint Commenters' opening and reply comments on the URF II Decision, as well as the persuasive arguments submitted by other parties,⁴ the Commission should amend Rule 5.2 to allow carriers to *maintain* (as compared to *webpublish*) a three-year archive of rates, terms and conditions *for intrastate services subject to the Commission's jurisdiction*.

Amend Rule 5.2 To Allow Require WebPublishing Only For Services Offered to Residential Consumers. Consistent with Joint Commenters' support of CALTEL's proposal that the webpublishing requirement apply only to services offered to residential consumers, the Commission should amend Rule 5.2 accordingly.

Amend Rule 5.3 To Allow For Mutually Beneficial Contract Terms, Including But Not Limited To Terms For Amending the Contract And Notice Periods. As discussed in Joint Commenters' opening and reply comments on the URF II Decision, as well as the persuasive arguments submitted by other parties, the Commission should amend Rule 5.3 so that carriers and their customers may determine a mutually beneficial notice period.

Amend Rule 7.4 To Grant The Commission Authority To Reject Tier 1 Advice Letters For Non-Ministerial Purposes. Joint Commenters agree with AT&T that Rule 7.4 as drafted grants Staff authority to render a final determination on Tier 1 advice letter filings. The result of which is an improper delegation of a discretionary duty (as compared to a ministerial task) to Staff. Joint Commenters recommend the Commission adopt AT&T's proposed amended Rule 7.4.

Rule 7.3: Negotiated Interconnection Agreements Should Be Subject To Tier 3. Joint Commenters object to Verizon's suggestion that the Commission revise proposed Rule 7.3(2) to require carriers to file negotiated interconnection agreements as Tier 2, instead of Tier 3 advice letters.⁵ To date, Joint Commenters' understand that it is the Commission's practice to approve negotiated interconnection agreements with a Commission resolution. This important process ensures that other carriers have notice of the negotiated agreements both for purposes of ensuring it is consistent with the federal Telecommunications Act, as well as having the option to adopt such agreement.

Verizon also proposes that amendments to interconnection agreements be filed under Tier 1. Joint Commenters agree with Verizon's Tier 1 proposal for amendments to interconnection agreements as it is consistent with the Commission's current practice as set forth in ALJ Resolution 181.⁶

⁴ AT&T OC URF II PD, pp. 7-9; Verizon OC URF II PD, p. 3; AT&T OC GO 96-B PD, pp. 3-4; Verizon OC GO 96-B PD, p. 3. CALTEL OC, pp. 5-6

⁵ Verizon OC GO 96-B PD, pp. 6-7.

⁶ Specifically, ALJ-Resolution 181, Rule 6.2 states, in part, that amendments will be filed by advice letter and such "Advice Letters will be deemed approved without a Commission Resolution 30 days from the date the Advice Letter is filed, unless the Commission takes formal action to reject an Advice Letter."

Amend Rule 8.3.1 To Eliminate Attestation Requirement for New Services. Joint

Commenters carefully detailed in their opening comments why the Commission should eliminate the attestation requirement for new services included in Rule 8.3(1). In contrast, TURN proposes changing “attest” to “demonstrate” to make clear that carriers have the “burden of proof” to demonstrate compliance. As Joint Commenters explained in their Opening Comments, CLCs have not been required to attest that their services, new or old, original or modified, comply with the consumer protection rules or sections of the PU Code. Such attestation or demonstration in Rule 8.3(1) is not relevant for the purpose of compliance with those rules or any other legal requirements.

Additionally, applying TURN’s proposal to Rule 8.3(2) and (3), it is not clear how a carrier would “demonstrate” that its New Service would not result in any degradation in quality of other service or that the carrier will activate the service only for customers affirmatively requesting it. It is not feasible for carriers to comply with TURN’s “demonstrate” proposal, nor does there appear to be any need for such demonstration, and therefore, it should be rejected.

III. Conclusion.

Consistent with both their reply and opening comments on the GO 96-B PD and the URF II PD, Joint Commenters recommend that the Commission modify the GO 96-B PD as follows:

- Amend Rule 1.14 and add new definitions to clarify that new GO 96-B applies to URF Carriers, CLCs and IXC’s and refers to those carriers collectively as “Competitive Market Carriers;”
- Amend Rule 5 to clarify that ILECs may not detariff services offered to CLCs or IXC’s;
- Modify Rule 8.2.1 to extend the time period for filing contracts for tariffed services from 15 days to 30 days;
- Modify the definition of “New Service” in Rule 1.8;
- Eliminate the attestation requirement for New Services in Rule 8.3;
- Amend Rule 5.3 to clarify that notices may be sent via email to customers that wish to receive notices via email;
- Modify Rule 5 to clarify that a Utility may not detariff an obligation mandated by state or federal law to be included in tariffs;
- Eliminate the webpublishing requirement for business services in Rule 5.2;
- Amend Rule 5.2 to clarify that carriers must maintain an archive of webpublished rates, terms and conditions; and
- Clarify in Rule 7.4 that only the Commission may suspend or reject a Tier 1 advice letter for non-ministerial reasons.

Dated August 20, 2007

Respectfully submitted,
/s/

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PROOF OF SERVICE

I, Margaret L Tobias, the undersigned, hereby declare that, on August 20, 2007, caused a copy of the foregoing:

**REPLY COMMENTS COX CALIFORNIA TELCOM, L.L.C., DBA COX COMMUNICATIONS,
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INC. ON THE PROPOSED DECISION OF COMMISSIONER CHONG ADOPTING
TELECOMMUNICATIONS INDUSTRY RULES (AGENDA ID #6847)**

in the above-captioned proceeding, to be served as follows:

[X] Via email and US Mail to the Assigned Commissioner's Advisor

[X] Via email and US Mail to the Administrative Law Judge

[X] Via email and US Mail to the Administrative Law Judge Kotz

[X] Via email to all parties, as set forth in the attached service list

Dated: August 20, 2007 at San Francisco, California.

/s/

Margaret L. Tobias

SERVICE LIST

Proceeding: R0504005 - CPUC - PAC BELL, VER
Filer: CPUC - FRONTIER COMMUNICATIONS OF CALIFORNIA
List Name: INITIAL LIST
Last changed: August 17, 2007

Proceeding: R9807038 - PUC-GENERAL ORDER 96
Filer: CPUC - GENERAL ORDER 96-A
List Name: INITIAL LIST
Last changed: August 17, 2007
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